

# **MEDICAL BOARD OF CALIFORNIA FINAL STATEMENT OF REASONS**

**Hearing Date:** May 9, 2003

**Sections Affected:** Amend Section 1300.4 and adopt Section 1314.1

## **Updated Information**

The Initial Statement of Reasons is included in this file and accurately reflects the final regulatory action taken by the board.

## **Local Mandate**

A mandate is not imposed on local agencies or school districts.

## **Small Business Impact**

This action will not have any adverse economic impact on small businesses, as it affects educational institutions located outside the United States.

## **Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

## **Objections or Recommendations/Responses**

### ***Written comments received regarding the originally proposed language:***

Gene Livingston, of the law firm Livingston and Mattesich, in a letter dated May 9, 2003, commented as follows:

“Section 1314.1 (b)(1)(B) sets forth the requirement that the medical school include in its mission statement “The role of research as an *integral* component of its mission....” Mr. Livingston outlined how he believes the Division should apply the term “integral” when reviewing international medical schools. He recommended that the Division should rewrite the research provision if the Division did not agree with his interpretation of the term “an integral component.”

The Division’s interpretation of the term “an integral component” agrees with Mr. Livingston’s interpretation and is a reasonable person’s interpretation of the term. Therefore, no modification of the language is necessary to assure clarity.

Bernard Ferguson, attorney at law, submitted a report entitled “The System’s Broke and Three Suggestions on Where to Begin Improving It.” Mr. Ferguson’s three recommendations were as follows:

1)Mr. Ferguson objected to the delegation of the accrediting function for U.S. medical schools to the Liaison Committee on Medical Education (LCME) in Section 1314 of Title 16, California Code of Regulations. He believes that the LCME operates in secrecy and should make its records public to taxpayers. He objects to the Division using LCME’s standards as the basis for reviewing international medical schools in light of the LCME’s secrecy and alleged subjective standards.

This recommendation was rejected because it is outside the scope of the proposed regulatory action.

2)Mr. Ferguson suggested that subsection (f)(2) be amended to include a requirement that all approved domestic and foreign medical schools shall submit an annual report to the Division. He listed 20 significant output measures that schools should report in their annual report to the Division.

This recommendation was rejected because it exceeds the scope of the proposed regulation and the Division did not believe it was necessary to include those output measures at this time.. There are approximately 1,000 medical schools located in 157 countries. The Division intends to limit the reevaluation provision in subsection (f)(2) to institutions being reevaluated pursuant to subsection (a)(2).The Division prefers to see how the re-evaluation process goes and, if necessary, will revise the regulations to include any output measures it finds to be necessary.

3)Mr. Ferguson suggested that the regulation be amended to authorize the Division to form an advisory committee comprised of representatives from Caribbean medical schools to assist the Division in evaluating new medical schools that seek California's approval.

This recommendation was rejected because the Division did not believe it was appropriate to have schools participate in the evaluation of their competitors. Further, the Bagley- Keene Open Meeting Act ensures opportunities for these interested parties to participate in the Division's deliberations on the applications of international medical schools that seek approval in California.

***Oral comments received at the hearing regarding the originally proposed language:***

1)Mr. Bernard Ferguson suggested that the Division amend subsection (f)(2) to require the Division to reevaluate medical schools every five years rather than every seven years. He reiterated his concerns about alleged secrecy in the LCME's medical school accreditation process; however, he believes that the LCME does a good job, and he does not suggest that the Division change its standards.

Mr. Ferguson's recommendation for a five-year reevaluation cycle was rejected because seven years is only a maximum interval for medical school reevaluation. In practice and at the Division's discretion, some medical schools may be reevaluated more frequently if they report any of the operational changes listed in subsection (f)(1) (A through E).

2)Mr. Gene Livingston urged the Division to adopt the regulations to provide guidance to international medical schools to assure compliance with statute and to serve as a formal base of standards for the Division.

The Division accepts this comment from Mr. Livingston in support of the proposal.

3)Harold Simon, M.D., Ph.D., Chief of the Division of International Health and Cross-Cultural Medicine at U.C. San Diego School of Medicine, commented that the five-year reevaluation cycle suggested by Mr. Ferguson is acceptable to him, and obtaining annual reports from medical schools would be useful.

The Division noted Dr. Simon's support for Mr. Ferguson's suggested amendment. Mr. Ferguson's recommendations for a five-year reevaluation cycle and for requiring medical schools to submit annual reports were rejected for the reasons explained above.

**Business Impact**

The Board has determined that its proposed regulatory action would not have a significant adverse economic impact on business.